

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

FRANK THUNDER HAWK-GALLARDO, Plaintiff, vs. SERGEANT JEREMY WENDLING, Defendant.	4:17-CV-04001-KES ORDER DENYING MOTION FOR RECONSIDERATION
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Plaintiff, Frank Thunder Hawk-Gallardo, moves this court to reconsider (Docket 44) its prior order staying discovery until the court determines the issue of qualified immunity (Docket 40). Thunder Hawk-Gallardo claims that the stay allows defendant “more time for the rest of the [discovery] to be [destroyed].” Docket 44.

A district court’s decision on a motion for reconsideration rests within its discretion. *Hagerman v. Yukon Energy Corp.*, 839 F.2d 407, 413 (8th Cir. 1988). “Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence.” *Id.* at 414. Thunder Hawk-Gallardo claims no error of law, fact, or newly discovered evidence. *See* Docket 44. Thunder Hawk-Gallardo’s claim that the video recordings he seeks are no longer available is not newly discovered evidence. The court was made aware of this by Wendling’s memorandum in support of

the motion for protective order prior to staying discovery. See Docket 33. Thus, it is

ORDERED that Thunder Hawk-Gallardo's motion to reconsider (Docket 44) is denied.

DATED November 9, 2017.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER

UNITED STATES DISTRICT JUDGE